MONTANA LEGISLATIVE HISTORY

Chapter 441 19 95

Bill H _____ S 13 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar01	✓ C	Hearing Date(s)	Jan06	✓ C
	Mar22	✓ C		Jan10	✓ C
	_____	___ C		Feb02	✓ C
	_____	___ C		_____	___ C
Date Out	Mar23	✓ C		Feb02	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

1/03	FISCAL NOTE RECEIVED		
1/10	HEARING		
1/12	TABLED IN COMMITTEE		
2/23	MISSED TRANSMITTAL DEADLINE FOR 45TH DAY DIED IN COMMITTEE		

SB 13 INTRODUCED BY HALLIGAN

REVISE MANNER IN WHICH A PERSON IS GIVEN NOTICE THAT THE PERSON'S DRIVING LICENSE OR DRIVING PRIVILEGES WILL BE SUSPENDED IF THE PERSON FAILS TO APPEAR IN COURT OR PAY ASSESSED FINES, COSTS, OR RESTITUTION AFTER BEING CITED FOR OR CONVICTED OF A MOTOR VEHICLE VIOLATION

12/15	INTRODUCED		
1/02	FIRST READING		
1/02	REFERRED TO JUDICIARY		
1/06	HEARING		
1/06	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/07	2ND READING PASSED	41	0
1/09	TAKEN FROM 3RD READING AND REREFERRED TO JUDICIARY		
1/10	TABLED IN COMMITTEE		
2/01	TAKEN FROM TABLE		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	48	0
2/04	3RD READING PASSED	45	0
	TRANSMITTED TO HOUSE		
2/04	FIRST READING		
2/15	REFERRED TO JUDICIARY		
3/01	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	96	2
3/28	3RD READING CONCURRED	94	3
	RETURNED TO SENATE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	46	0
4/03	3RD READING AMENDMENTS CONCURRED	44	0
4/08	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR CHAPTER NUMBER 441 EFFECTIVE DATE: 10/01/95		

SB 14 INTRODUCED BY GAGE

CHANGE FUND TYPE USED TO ACCOUNT FOR ESCHEAT PROPERTY FROM AGENCY FUND TO EXPENDABLE TRUST FUND, AS REQUIRED BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

12/15	INTRODUCED		
1/02	FISCAL NOTE REQUESTED		
1/02	FIRST READING		
1/02	REFERRED TO TAXATION		
1/04	HEARING		
1/04	FISCAL NOTE RECEIVED		
1/04	FISCAL NOTE PRINTED		
1/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/11	2ND READING PASSED	49	0
1/12	3RD READING PASSED	48	0

SENATE BILL NO. 13

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON CITED FOR A MOTOR VEHICLE VIOLATION MAY GIVE UP THE PERSON'S DRIVER'S LICENSE IN LIEU OF BAIL AND DRIVE ON A TEMPORARY PERMIT UNTIL THE DATE OF THE PERSON'S COURT APPEARANCE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Surrender of driver's license in lieu of bail -- temporary driving permit.** A peace officer authorized to accept bail for the violation involved may, at the request of the person, take in lieu of bail the driver's license of a person to whom the peace officer issues a citation for violation of a provision of Title 61, chapter 3, 7, 8, 9, or 10. The peace officer shall inform each cited person of this option. The officer shall, when the driver's license is taken, note on the back of the copy of the citation given to the cited person, in a form determined by the department of justice, that the cited person's driver's license was taken in lieu of bail for the violation and the date upon which the person shall appear in court. The notice entitles the person to operate a motor vehicle that the person's driver's license entitles the person to operate, with any restrictions and conditions on the driver's license, until the date of the person's appearance in court. If the person fails to appear and the failure is not excused by the court, the court shall send the person's driver's license to the department of justice and notify the department of the failure to appear. The department shall suspend the person's driver's license until the department is notified by the court that the person has appeared.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 46, chapter 9, and the provisions of Title 46, chapter 9, apply to [section 1].

-END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE CRIPPEN**, on January 6, 1995, at 10:00 a.m.

ROLL CALL

Members Present:
Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Council
Judy Feland, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 13, SB 7
Executive Action: √ SB 26
507

{Tape 1: Side A}

HEARING ON SB 13

Opening Statement by Sponsor:

SENATOR MIKE HALLIGAN, Senate District 34, Missoula, began by asking the committee members to look at the amendment he drew up rather than the bill. He told the members that after consulting with local officials and department individuals, he felt that the amendment would be a better approach and that it essentially strikes what he did in the original bill.

SENATOR HALLIGAN explained that when individuals are given a traffic citation by local law officials, it goes into a JP or municipal court. They then have an appearance date. If the person forgets about it, in almost all cases, they issue a bench warrant. This requires the sheriff or city police to serve hundreds of warrants statewide for the smallest infractions, which is a waste of our law enforcement. He said that like his bill, in North Dakota, they physically take your license. This guarantees an appearance without posting bond, so the people make sure they show up, he said. He said that they have decreased their warrant site serving by 50 per cent. JP courts and law enforcement people are having to track drivers' licenses, and make sure they aren't lost, etc. So the better idea, he said, is to amend existing law that already deals with the same area. The amendment, he said, revises the manner in which the person is given notice that driving privileges would be suspended if the person fails to appear in court. He asked **Brenda Nordland, Department of Justice** to give the committee an explanation of the amendment. It would include less paperwork, less involvement of law enforcement personnel, would be cleaner with less cost involved, he said.

Brenda Nordland, assistant Attorney General, Motor Vehicle Division of the Department of Justice appeared as neither an opponent or proponent. She explained that the current law gives the Department of Justice the authority to suspend a drivers' license of an individual who doesn't show up on a traffic citation or who doesn't pay an assessed fine, cost or restitution. The difficulty with the current law is that it only allows action to be taken if the individual signs a statement in court that advises them of the fact that their drivers' license was going to be suspended, or the court sends out a certified letter advising them of the action that will be taken if they do not comply with the orders to appear or an order to pay. A court appearance or a signed statement does not work with the individual who forgets completely about his citation and does not show up in court, she said. As to the non-payers, the way the law is applied, justice courts enter into an agreement or a contract to pay a fine that's beyond the current means of an individual with an acknowledgement that the drivers' license will not be lost, she said. The only other alternative is to send a certified letter out to the individual and the courts do not have the budget to do this.

She explained that this amendment would allow forms to be provided on the back of the citation at the time the individual is initially charged with the traffic offense. Then they would be apprised that if they do not appear, their drivers' licenses would be suspended by the department when the court notifies the Department of Justice of the non-appearance. Alternatively, she said, if they do appear and are unable to pay, the court can issue an order and serve that order by first class mail. This would advise them that if they fail to pay, their drivers' license would be suspended. **Ms. Nordland** said they some

deletions were made in current law because on non-use since 1987 in cases of criminal use of vehicles and failure to forfeit posted bond.

The other change, she noted, would be clarification that if a suspension occurs, the suspension will continue in effect until the court notifies the Department of Justice that the conditions causing the suspension, either non-appearance, or non-payment of possible restitution have been satisfied and the fine, reinstated in this amendment, has been paid.

Proponents' Testimony:

Jim Kembel, representing the City of Billings, spoke in support of the bill.

Charles Brooks, testifying on behalf of the Yellowstone County Commissioners said they were interested in any measure that would reduce costs in JP courts and district courts.

Bob Gilbert, representing the Montana Magistrates' Association, concurred with the amendment and supported the bill.

Col. Craig Reap, of the Montana Highway Patrol, spoke in favor of the amendment. He had been in touch with other law enforcement agencies and they support the bill also. The purpose, he said, was to cut down on the number of outstanding warrants and to facilitate the handing of non-payment of fines.

Opponents' Testimony:

Scott Restvedt, representing Valley Bail Bonds, Belgrade, Montana, said he had sent for the bill, and failing to get it in time, felt he had questions about the posting of the drivers' license in lieu of posting bonds, or did they go hand in hand, he wondered?

SENATOR CRIPPEN expressed regret to **Mr. Restvedt**, saying he hoped his questions would be answered in the hearing and offered him a copy of the amendment.

Mr. Restvedt said if it had been amended, he had no problems.

Questions From Committee Members and Responses:

SENATOR HALLIGAN answered **SENATOR AL BISHOP's** inquiry about the use of certified mail rather than using first class and the possible use of a bench warrant by saying that these are minor offenses and we should not have law enforcement wasting valuable time, so the notice would be the actual citation that would say, "if you don't show up, your drivers' license could be suspended. We will use first class mail, he said, if a person doesn't appear and is fined. If he doesn't pay by the date indicated, then the

judge will send by certified mail a letter to suspend the driving privileges.

SENATOR LORENTS GROSFIELD referred to Chapters 3 through 10. He inquired if the Senator was talking about parking tickets or moving violations?

SENATOR HALLIGAN said that they are moving violations, unlawful use of an identification card, size and weight violations.

SENATOR HALLIGAN answered, "No," in response to **SENATOR GROSFIELD**'s specific question on whether parking tickets would be included in the bill.

SENATOR LINDA NELSON asked the Senator if someone failed to show up for a court appearance, would somebody go to them personally to ask for their license, or to physically remove the license, or did it mean that the license would be suspended, perhaps on a computer?

SENATOR HALLIGAN asked **Brenda Nordland of the Department of Justice** to answer.

Brenda Nordland explained that if they do not have physical possession of a license at the time they receive the notice of suspension, they notify them in the mail that the department has implemented the suspension and ask them to return the drivers' license to the division. If they were picked up again, they would show on the computer as suspended, she said.

SENATOR REINY JABS inquired if this would affect a person who had paid a bond.

SENATOR HALLIGAN answered, "No."

SENATOR BAER said that the original bill provided for restoration of the drivers' rights and license if the person makes good. He asked if this provision would be included?

SENATOR HALLIGAN said that it was already in the existing law on the back page of the amendment.

SENATOR BARTLETT questioned **Brenda Nordland** if it was contemplated that anyone who experiences this kind of suspension will have to pay the reinstatement fee?

Brenda Nordland told her that the bond requires the reinstatement fee be paid if the suspension occurs. She said that she might suggest to the courts in the lower jurisdiction that the Motor Vehicle Division act on the first instance of failure to appear by a simple letter.

Closing by Sponsor:

SENATOR HALLIGAN assured the chairman that he would respond to **Mr. Restvedt** to make sure his questions were answered and the chairman would be alerted to any opposition.

The purpose of the bill is to get back to individual responsibility, **SENATOR HALLIGAN** said. If a person is given a citation to appear in court, a person should not waste the time and duties of law enforcement.

HEARING ON SB 7

Opening Statement by Sponsor:

SENATOR TERRY KLAMPE, Senate District 31, introduced his bill entitled, "An act clarifying the Tolling of Applicable Statutes of Limitations Related to Medical Malpractice Claims."

SENATOR KLAMPE began his opening by explaining some definitions. The medical legal panel is method of alternative dispute resolution. We have a good reputation in Montana for having a good medical legal panel, he said. It's a required thing, he told the committee, that delivers expert opinion and makes recommendations on whether a suit is frivolous or worthy of being heard. In the event of tolling, what happens is the statute of limitations is put on hold, basically, he said, you could think of it as stopping the clock.

The bill deals with three areas of change the Senator told the committee:

1) Simple clean-up. With the exception of page one, lines 23 and 24, and lines 2, 3 and 7 on page 2, the rest is simply clean-up, he said.

2) The second area was an error in the statute printed two or three sessions ago, he explained, that deal with tolling statutes of limitation in the event that a defendant doesn't disclose an act of omission. He portrayed himself as a defendant who committed an act of omission. If he didn't disclose to the patient, or the plaintiff, that he did do this, then there would be a tolling of the statutes of limitation. **SENATOR KLAMPE** told the members that he would change the words from "plaintiff" to "defendant."

3) This area would be most important, he explained. This area deals with an addition to the statute and making it clear that in a case such a malpractice, which is really a negligence or act of omission error, and tolling, which occurs when there is an application of the medical legal panel to hear a case when the director of the medical legal panel precedes. The tolling, should not only be for the doctor, he explained, but for any party that's joined in the suit. Many times, he explained, it's

important that we keep the rural, local focus and only pay in extreme circumstances when the small community needs to be reimbursed. It would only be used when a child commits a heinous crime, perhaps in a once or twice a year situation, he explained.

SENATOR SHARON ESTRADA asked **SENATOR FRANKLIN** if the funding for this comes out of money already budgeted.

SENATOR FRANKLIN answered the current cost for detention is 9.1 per cent of the funding from the lottery proceeds. That's the same pot of money, she said. On **SENATOR BARTLETT**'s amendment it says "based on funding available, after the board has funded the block grants, the board shall in case of extreme hardship." It is based on whether or not there's any money left out of that 9.1 per cent, the Senator said.

SENATOR BISHOP reminded the committee that this bill would expand the duties of the board somewhat and that in a couple of years they're probably going to be here again asking for more FTE's to handle these duties. In all cases, we should be aware beyond the immediate issues of what may be created, her admonished the committee.

Vote: The committee **voted UNANIMOUSLY, by oral vote,** to **DO PASS** SB 26 as amended in **SENATOR DOHERTY**'s original motion.

EXECUTIVE ACTION ON SB 13

Motion: **SENATOR HALLIGAN MOVED TO AMEND THE BILL,** The **MOTION CARRIED UNANIMOUSLY** on oral vote.

Discussion: **SENATOR GROSFIELD** asked what the restitution fee for a drivers' license would be, and **SENATOR HALLIGAN** answered, "$25.00". **SENATOR GROSFIELD** then asked if you would pay $25.00 for a $15.00 driving violation to get your license back. **SENATOR HALLIGAN** said that they would write a letter before they do that to give people an opportunity if they fail to appear. **SENATOR GROSFIELD** wondered why it was not included in the amendment when maybe some years down the road, some administrator may not have that understanding. **SENATOR HALLIGAN** didn't know if they should put that in the statutes.

Motion/Vote: **A MOTION WAS MADE BY SENATOR BAER TO DO PASS SB 13 AS AMENDED.** SB 13 as amended. By unanimous oral vote, the **MOTION CARRIED.**

1

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-6-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

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SB13
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SENATE STANDING COMMITTEE REPORT

January 6, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB13 (first reading copy -- white), respectfully report that SB13 be amended as follows and as so amended do pass.

Signed: _____
Senator Bruce Crippen, Chair

That such amendments read:

1. Title, lines 4 through 6.
Following: ""AN ACT"
Strike: lines 4 though 6 in their entirety
Insert: "REVISING THE MANNER IN WHICH A PERSON IS GIVEN NOTICE THAT THE PERSON'S DRIVER'S LICENSE OR DRIVING PRIVILEGES WILL BE SUSPENDED IF THE PERSON FAILS TO APPEAR IN COURT OR PAY ASSESSED FINES, COSTS, OR RESTITUTION AFTER BEING CITED FOR OR CONVICTED OF A MOTOR VEHICLE VIOLATION; AND AMENDING SECTION 61-5-214, MCA.""

2. Page 1, lines 10 through 25.
Strike: everything following the enacting clause
Insert: "**Section 1.** Section 61-5-214, MCA, is amended to read:

"**61-5-214. Mandatory suspension for failure to appear or pay fine -- notice.** (1) The department shall suspend the license or driving privilege of ~~an operator~~ a person immediately upon receipt of a certified copy of a docket page or other sufficient evidence from the court that the ~~operator~~ person:

~~(1)~~ (a) is charged with or convicted of a violation of ~~61-5-302 through 61-5-306, 61-5-309, or~~ chapters 3~~, 6, 7, 8, 9, or~~ through 10 of this title ~~or is guilty of a criminal offense and was driving or was in actual physical control of a motor vehicle when the offense occurred; and~~

~~(2) (a)~~ (b)(i) failed to post the set bond amount or appear ~~as ordered by the court or appear~~ upon issued complaint, summons, or court order; or

~~(b)~~ (ii) ~~failed to forfeit the posted bond amount or,~~ when assessed a fine, costs, or restitution of $100 or more, failed to pay the fine, costs, or restitution; and

~~(3)~~ (c) received prior written notice~~, evidenced by a signed receipt for a certified letter or by a statement signed before the court of the provisions of this section, including the reinstatement fee~~ that the driver's license or driving privileges of the person will be suspended upon a failure to post bond or appear on an issued complaint, summons, or court order or upon a failure to pay assessed fines, costs, or restitution.

(2) The suspension continues in effect until the court

notifies the department that the person has paid the reinstatement fee and either appeared in court or paid the assessed fines, costs, or restitution.

(3) The notice required under this section may be included on the summons or complaint and notice to appear form given to the person when charges are initially filed or may be contained in a court order, either hand-delivered to the person while in court or sent by first-class mail, postage prepaid, to the most current address for that person received by or on record with the court."

-END-

Amendments to Senate Bill No.13
First Reading Copy (white)

Requested by Senator Halligan
For the Committee on Judiciary

Prepared by Valencia Lane
January 5, 1995

1. Title, lines 4 through 6.
Following: ""AN ACT"
Strike: lines 4 though 6 in their entirety
Insert: "REVISING THE MANNER IN WHICH A PERSON IS GIVEN NOTICE THAT THE PERSON'S DRIVER'S LICENSE OR DRIVING PRIVILEGES WILL BE SUSPENDED IF THE PERSON FAILS TO APPEAR IN COURT OR PAY ASSESSED FINES, COSTS, OR RESTITUTION AFTER BEING CITED FOR OR CONVICTED OF A MOTOR VEHICLE VIOLATION; AND AMENDING SECTION 61-5-214, MCA.""

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~~(1)~~(a) is charged with or convicted of a violation of ~~61-5-302 through 61-5-306, 61-5-309, or~~ chapters 3~~, 6, 7, 8, 9, or~~ through 10 of this title ~~or is guilty of a criminal offense and was driving or was in actual physical control of a motor vehicle when the offense occurred~~; ~~and~~

~~(2) (a)~~ (b)(i) failed to post the set bond amount or appear ~~as ordered by the court or appear~~ upon issued complaint, summons, or court order; or

~~(b)~~ (ii) ~~failed to forfeit the posted bond amount or,~~ when assessed a fine, costs, or restitution of $100 or more, failed to pay the fine, costs, or restitution; and

~~(3)~~ (c) received prior written notice~~, evidenced by a signed receipt for a certified letter or by a statement signed before the court of the provisions of this section, including the reinstatement fee~~ that the driver's license or driving privileges of the person will be suspended upon a failure to post bond or appear on an issued complaint, summons, or court order or upon a

failure to pay assessed fines, costs, or restitution.

(2) The suspension continues in effect until the court notifies the department that the person has paid the reinstatement fee and either appeared in court or paid the assessed fines, costs, or restitution.

(3) The notice required under this section may be included on the summons or complaint and notice to appear form given to the person when charges are initially filed or may be contained in a court order, either hand-delivered to the person while in court or sent by first-class mail, postage prepaid, to the most current address for that person received by or on record with the court."

"

{*Internal References to 61-5-214:*
OK 61-5-215 *Ok 61-5-215*}

members of the court allows the diversity to better reflect Montana, he said. He supported the motion.

Vote: The motion passed unanimously on oral vote.

EXECUTIVE ACTION ON SB 13

Motion: **SENATOR HALLIGAN MOVED TO TABLE SB 13.**

Discussion: **SENATOR HALLIGAN** asked for this motion to give him some time for further work on this bill. He realized that the bill could affect the insurance rates of younger people which was not his intent in the measure. The bonds people also have a problem with the bill, he reported. He was concerned about the adoption of the proper public policy.

Vote: The motion **PASSED UNANIMOUSLY** on an oral vote.

counsel as they are today and there was no availability of libraries inside the prison to assist inmates to pursue cases. The statutes of limitations was trying to reflect some sensitivity to those early days when resources were not available. Now they are available, there is Constitutional law and case law and there is no longer a tolling of the statute of limitations, he said.

Opponent's Testimony: **Bill Gianoulias, attorney, working for Risk Management in Tort Defense, Department of Administration** helped to explain the bill. At one time there was a need to allow inmates an extension on the statute of limitations because access to courts may have been difficult. He did not think it was difficult any more. The best example, he said, is that out of 203 cases they were currently defending, 97 are brought by inmates. Inmates own computers in prison or have access to them. They also have a library paid for by the state and there are inmate law clerks within the prison. Nobody gets to prison without having a lawyer in the first place and there are fill-in-the-blank forms available to file civil rights claims in federal court and once filed, federal courts accomplish service on the state. There is no reason then for a five-year statute of limitation extension any more, he said. He said one tricky portion had to do with retroactivity in the bill. They did not want to cut anyone off, so they provided that no one would be cut off by the passage of the bill. The minimum time anyone would have to recognize that their limitations would be decreased would be six months. He also presented written testimony. **(EXHIBIT 5).**

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

SENATOR HALLIGAN closed on HB 37 without further comments.

{Tape: 2; Side: A; Approx. Counter: 00; Comments: .}

EXECUTIVE ACTION ON SB 13

Motion: **SENATOR HALLIGAN MOVED THAT THE COMMITTEE ADOPT THE AMENDMENTS TO SB 13 AS CONTAINED IN (EXHIBIT 6).**

Discussion: **SENATOR HALLIGAN** explained that his amendments addressed the concerns of **SENATOR SPRAGUE** that there would be an insurance problem for young people getting drivers' license suspensions. He said that in case of non-appearance, there would

be a letter going from the court asking the violator to appear or have the license suspended. He said he had specified in the amendments that initial notice must be followed by a written notice from the court by first class mail. If after the stop, a person does not have bail, they can appear on a certain date and if they don't, the letter goes out asking them to appear. If they do not appear, their license will be suspended. If they are 18 years old, it may cause a major problem with their insurance, so he said that they had included in the amendments language specifying that they would not be included in special risk classification and that their rates supposedly can't be affected. Now, he said, the insurance companies don't like that at all. He assured a full hearing in the House on this bill so that the insurance companies could come in to debate it.

SENATOR BARTLETT said it was possible to remove the rate section and deal with it though the motor vehicle report that the Department of Justice can or cannot release. They can make differentiation about the kinds of information they release to the insurance companies, she said.

Valencia Lane said that **Brenda Nordland** told her it wouldn't work to try to adopt the same rule here as in the minors in possession act.

CHAIRMAN CRIPPEN said that the insurance companies would get an opportunity to present their case in the House hearings concerning possible rate changes.

Vote: The motion to adopt the amendments **CARRIED UNANIMOUSLY** by oral vote.

Motion/Vote: **SENATOR HALLIGAN MOVED SB 13 DO PASS AS AMENDED.** The motion **PASSED UNANIMOUSLY** on an oral vote.

EXECUTIVE ACTION ON HB 37

Discussion: **SENATOR DOHERTY** asked about the statute of limitations for minors. On Page 1, Line 17, "minority" was stricken, so did it also affect the statute of limitations for minors?

SENATOR BISHOP said that Line 14 said, "either a minor or seriously ill." Did that take care of it, he asked?

Valencia Lane commented that there were no time limits on a minority and five years on a mental illness.

SENATOR HALLIGAN explained that they were limiting the disability for serious mental illness to five years and were not trying to restrict a minor.

SENATOR DOHERTY asked if it was five years from the onset of the serious mental illness or five years after the mental illness?

SENATE STANDING COMMITTEE REPORT

February 2, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 13 (third reading copy -- blue), respectfully report that SB 13 be amended as follows and as so amended do pass.

Signed: _____
Senator Bruce Crippen, Chair

That such amendments read:

1. Title, line 10.
Following: "VIOLATION;"
Insert: "PROHIBITING INSURANCE PREMIUM INCREASES OR SPECIAL RISK CLASSIFICATIONS BASED ON SUSPENSION OF A DRIVER'S LICENSE FOR FAILURE TO APPEAR OR PAY;"
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 33-16-201 AND"

2. Page 2, line 3.
Following: "restitution."
Insert: "A suspension under this section may not be considered for insurance purposes as a special risk classification under Title 33 or be used as the basis for increasing a person's insurance premiums."

3. Page 2, line 7.
Following: "court."
Insert: "The initial notice must be followed by a written warning from the court, sent by first-class mail, advising the person that a license suspension is imminent and of the probable consequences of a suspension unless the person appears or pays within a specified number of days."

4. Page 2, line 8.
Insert: "**Section 2.** Section 33-16-201, MCA, is amended to read:
"**33-16-201. Standards applicable to rates.** The following standards ~~shall~~ apply to the making and use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:
(1) (a) Rates ~~shall~~ may not be excessive or inadequate, as ~~herein~~ defined in this title, ~~nor shall~~ and they may not be unfairly discriminatory.
(b) ~~No~~ A rate ~~shall be held to be~~ is not excessive unless ~~such~~ the rate is unreasonably high for the insurance provided and a reasonable degree of competition does not exist in the area with respect to the classification to which ~~such~~ the rate is

PV
Amd. Coord.

applicable.

(c) ~~No~~ A rate ~~shall be held to be~~ is not inadequate unless ~~such~~ the rate is unreasonably low for the insurance provided and the continued use of ~~such~~ the rate endangers the solvency of the insurer using ~~the same~~ it or unless ~~such~~ the rate is unreasonably low for the insurance provided and the use of ~~such~~ the rate by the insurer using ~~same~~ it has, or if continued will have, the effect of destroying competition or creating a monopoly.

(2) (a) Consideration ~~shall~~ must be given, to the extent applicable, to past and prospective loss experience within and outside this state, to ~~revenues~~ revenue and profits from reserves, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses, both countrywide and those specially applicable to this state, and to all other factors, including judgment factors, ~~deemed~~ considered relevant within and outside this state. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent 5-year period for which ~~such~~ the experience is available.

(b) Consideration may also be given in the making and use of rates to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers.

(3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of ~~any such~~ an insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof.

(4) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans ~~which~~ that establish standards for measuring variations in hazards or expense provisions, or both. ~~Such~~ The standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established, based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations, except that no special risk classification may be established based on anything adverse to the insured in a driving record ~~which~~ that is 3 years old or older or for any driver's license suspension under 61-5-214. ~~Such~~ The classifications and modifications ~~shall~~ apply to all risks under the same or substantially the same circumstances or conditions.""

-END-

person come in and show that they did get insurance." He said he knew courts do that too. They could buy the 30-day insurance and then let it expire and there is no one to check on them again to require that they do it unless they are stopped again.

REP. HURDLE asked if at any stage anyone would lose their drivers license.

Col. Reap said there is a measure in the legislative process where five points would be assessed on a person's driving record who fails to have insurance. He said that had been strengthened by requiring that all insurance violations have the five-point designation and eventually with enough points, they would lose their license. This would still not require them to get insurance where this bill would present that opportunity.

Closing by Sponsor:

SEN. BROOKE recommended that the committee seriously consider the bill.

HEARING ON SB 13

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, said the purpose of SB 13 was to eliminate the problem of having to use law enforcement personnel to chase down minor offenses by requiring the suspension of a drivers license for failure to appear in response to a traffic violation. The second page of the bill, lines 9 through 15 provided for the warning at the time that a citation is issued. An additional notice would be followed by a letter. After that warning, there would be an official notice of suspension. There is a provision where insurance companies could not use the information for to change rates.

Proponents' Testimony:

Brenda Nordlund, Department of Justice, said they would not be adopting a new policy in using the drivers license as a tool to get an individual to comply with a citation to appear in court or to comply with a court order to pay a particular fine. That policy was adopted in 1987. The reason for this bill is that the policy which was put into law contains a mechanism that doesn't work well and this bill would fine tune it so that it will work. The current law has no provision for forcing compliance. This bill would provide that two warnings be given before the department would suspend a license because they failed to appear on a citation or because they failed to pay a fine after being convicted of an offense under title 61.

Colonel Craig Reap, Montana Highway Patrol, reported that they have 2,500 outstanding warrants at any given time. The majority

are for multiple offenders. One of the problems they encounter when they try to enforce the warrants are the full jails in many counties. They see this proposal as a valuable tool for enforcement and the methods proposed as effective for ensuring that offenders will appear to pay their fines.

{Tape: 1; Side: B; Approx. Counter: 45.5}

Opponents' Testimony:

Jacqueline Lenmark, American Insurance Association (AIA), made it clear that AIA supported the original intent of the bill but stood as an opponent because of the concerns brought about by the Senate amendments. The concerns dealt with amendments on page 2, lines 6 - 8 and section 2 which modified the insurance code. She informed the committee of the ground rules for insurance underwriting and concluded how the insurance company would take care of the person who was generally compliant with the law, but is negligent in responding to warrants to appear. She said that when a factor which an insurance uses in underwriting a risk is removed, availability of insurance is impacted and the other is affordability of the product. This was the reason that the suspension of a drivers license is an important factor for consideration by an insurance company. She asked that SB 13 be passed, but to amend it by deleting lines 6 - 8 on page 2 and to delete section 2.

Ron Ashabraner, State Farm Insurance Company, supported the bill, but opposed the amendments added by the Senate. He said that one of the deterrents, in DUI cases for instance, today is the responsibility when the insurance company rates the driver. He said that under this bill, the driver could not be rated because of the restriction to inform the insurance company that the driver failed to appear. He reiterated the request for amendments to delete the exclusion.

Roger McGlenn, Executive Director, Independent Insurance Agents' Association of Montana, said they "love the bill, hate the amendments." They requested the removal of the Senate amendments.

Questions From Committee Members and Responses:

REP. ANDERSON asked if they could leave in the language on lines 6 - 8, but refer to subsection (1)(c) which dealt with the suspension for mere failure to pay the fine or to appear so that the insurance company could still use convictions under title 61 as part of the calculations for risk.

Ms. Lenmark said that their response would still be the same because it is an indication that someone is not complying with rules and public policy. They are trying to encourage compliance

with the law. Their position was that they want public policy to require compliance.

REP. ANDERSON said the current law does not provide for the use of suspension in their calculations and he did not understand how failure to pay the fine or to appear on a summons would make a difference.

{Tape: 2; Side: A}

Ms. Lenmark said she read the bill to intend that the failure to pay the fine would trigger the suspension of the license.

REP. ANDERSON said that was correct, but under current law there is no suspension provision.

Ms. Lenmark recognized that it isn't something which happens under current law, but they are supporting the passage of this bill and if it were to become law, then it would be a factor they need to be able to consider in underwriting policies.

REP. ANDERSON said he still did not understand how it would translate into increased risk.

Ms. Lenmark replied that a person who was ordered by law enforcement or a court to pay a fine and disregarded that might just as easily disregard a traffic sign. The ability and willingness to disregard public policy or law that was at issue.

REP. ANDERSON asked the sponsor if he was supportive of the amendments.

SEN. HALLIGAN said he would not be bothered if the amendments were deleted from the bill.

REP. BOHARSKI asked why the bill contained extra written notice requirements.

SEN. HALLIGAN said they wanted to make sure that there were sufficient warnings and were directed at the teen driver whose parents or guardian needed to be informed.

REP. BOHARSKI asked if this didn't put an extra burden on the court.

SEN. HALLIGAN answered that the magistrates' association testified in favor of the bill and even if they have to send out a separate letter, the offsetting problem and costliness of the outstanding warrants was more than taken care of through the process.

REP. DANIEL MC GEE asked about the stricken language in the title.

SEN. HALLIGAN replied that it was the original title of the bill.

REP. MC GEE said he thought he would be in favor of the original language of the bill which indicated that the drivers license would be taken at the outset and asked why that was changed.

SEN. HALLIGAN responded with the history of the bill and the fiscal note which had created a problem in unfunded administrative costs at the local level. He had been informed that there was an existing law which, if amended, would handle the problem rather than to make a new law.

REP. MC GEE asked if the original language would address the outstanding warrants to a greater degree or more positively than what was being attempted with this bill.

SEN. HALLIGAN said, "Yes." He understood the department's desire to fix the existing law, but both needed to be dealt with.

REP. MC GEE said there would be some fiscal impact with the multiple mailings of notices. He also said that if the drivers license had to be recovered by a person appearing in court, there would be more incentive than receiving a ticket stamped with the warning that it may be suspended. He felt it would also eliminate the concern of the insurance companies about suspended licenses. He asked if that would not be a better approach.

SEN. HALLIGAN said the changes to the bill obviously created a tremendous problem for the insurance companies. He referred the question to **Ms. Nordlund.**

Ms. Nordlund said she could not address anything beyond this session's discussion. She advised the committee that as the bill was originally drafted and as they appeared for hearing, there were additional opponents (bondsmen) to the bill which they managed to avert by using this mechanism rather than the bail for bond. She discussed issuing a temporary permit and taking the license at the time of the arrest. She said that when that occurs, the department doesn't know anything about that action and would not find out about the citation until a conviction was actually recorded in the court and sent to them. The individual who would get the temporary driving permit from the officer could request a duplicate license. It would create at least as much administrative difficulty for the officer. The bill would limit the insurance companies' options to deal with the driver whose record would reflect a suspension related to a nonappearance or nonpayment. Under current law, when the insurance company orders a copy of motor vehicle reports on a person, it would show those who had not paid a fine and under a time-pay contract with a court-ordered suspension action.

REP. MC GEE said it looked like a logistical issue and he proposed a solution which would involve the officer who issued

the citation to notify the court upon taking the drivers license so that duplicate licenses could not be obtained by the driver.

Ms. Nordlund responded that this would place an additional responsibility on the court to notify the department.

REP. MC GEE countered with the argument that in the bill, an additional responsibility is created in the written notices which might not be received by the respondent because of address changes or error and said he could not determine what the bill would solve.

Ms. Nordlund said it would solve the problem in that the first warning would have been given at the time of the arrest. The second warning by first class mailing wouldn't make a difference whether received or not. Most would receive it because in most cases the address given to the officer will be accurate.

REP. MC GEE asked if they were addressing the problem or making a problem. He saw the real problem as finding a way to cut down on problem drivers rather than how to notify them. He felt that was addressed in the original bill before the amendments to strike the language in the first three lines.

Ms. Nordlund suggested giving this bill a try since it addressed the system as it currently exists and allow them to create a data base for the next legislature to determine its effectiveness. If an automated system is put in place then they may need to make changes. Their intent was to make the currently hollow statute substantive enough to work with the system that is in place.

REP. ANDERSON requested a list of the most often cited offenses under title 61.

Col. Reap said they included insurance [violations], night speeding with a fine of $50, seat belt offenses, reckless driving and careless driving.

REP. BOHARSKI asked if the judge has to ask the department to suspend a license.

SEN. HALLIGAN said that was correct that there has to be a certification from the court indicating that the notice has been given and the person failed to appear or post bond.

REP. BOHARSKI asked if it was a "may" on the part of the court.

SEN. HALLIGAN answered, "No."

CHAIRMAN CLARK asked how this would deal with an out-of-state driver.

SEN. HALLIGAN replied that he understood that if someone does not have the bond, under the new changes in the bill, there are electronic connections between states for driving privileges which are suspended and that there are reciprocal agreements. He did not know if they would apply.

Ms. Nordlund said that a nonresident violator who cannot post bond would be taken before the judge. Montana is not a member of the nonresident violator compact. She did not think that the discretion of the law enforcement officer on the street would change under this law. There are no separate consequences for nonresidents.

REP. CLIFF TREXLER asked if **Ms. Lenmark** was saying that when someone breaks one law, there is a chance that they will break others.

Ms. Lenmark answered, "Yes, I said that there is a greater likelihood if a person is willing to disregard one law that he will be willing to disregard a different law."

REP. TREXLER gave the example of breaking the speed limit law indicating that that person might not show up for the hearing.

Ms. Lenmark said she did not know if that would indicate that they might not show up for the hearing, but it might indicate that they might be willing to do a "Hollywood Stop" at a corner.

REP. TREXLER said he was concerned that the fact that they would have their insurance written up mainly because of nonappearance rather than being written up for breaking the law in the first place when the citation was issued.

Ms. Lenmark replied that the person would be cited for breaking the law and as a result of that citation or conviction a penalty would be imposed and then noticed that there would be a suspension if there is noncompliance. If the license were suspended, the insurance company would see that as two separate kinds of violations, one was a cited violation and the other is a noncompliance violation with the consequence of suspension.

REP. TREXLER asked if the insurance company would look at it as other suspensions or if there are different kinds of suspension classifications.

Ms. Lenmark answered that insurance companies, based on their own criteria and considerations, have different approaches to rating policies. She thought the suspension would be looked at in terms of the violation for which the license was suspended. A DUI would have a more serious impact on the policy than a "Hollywood Stop."

CHAIRMAN CLARK looked at it from the standpoint of helping insurance companies and asked if the license were suspended for a

no-show and they come in as a result of the suspension, wouldn't that expedite the process of getting that conviction on the person's driving record so that it could be used by the insurance companies. Without it, there are several outstanding warrants without a conviction.

Ms. Lenmark said that having the knowledge that it is suspended is an advantage.

CHAIRMAN CLARK restated the question, "What I am saying is, the fact that the person's driver's license is being suspended because they did not show up on a speeding ticket, for an example, you cannot take action against them as the insurer until they have a conviction. Correct."

Ms. Lenmark said they would not use the suspension as a criteria until the suspension had occurred and showed up on their driving record.

CHAIRMAN CLARK redirected the question to before the suspension had occurred. If the person broke the law, until that person was convicted, the insurance company could not do anything about it.

Ms. Lenmark said that was accurate.

CHAIRMAN CLARK pointed out that as long as the person avoids prosecution, the insurance company has no control; but with this law he asked if the threat alone of losing their drivers license could bring them in and get the conviction on their record and thereby give the insurance company the ability to take action.

Ms. Lenmark answered that she agreed and that they supported the intent of the bill, but did not support the prohibition for them to use that information as an underwriting criteria.

CHAIRMAN CLARK reiterated that he meant that even if they cannot use that prohibition against them it was still to their advantage to get them in and convicted. He said that because the suspension would likely be short term, it would be to the advantage of the insurance company to not worry about that because they will be able to take action based on the conviction of the traffic violation.

Ms. Lenmark said she understood that that is the way things are now and this bill would streamline and economize the way that a driver can be notified of the possibility of suspension. The insurance company can use that information now. But the amendments would take away one of the underwriting criteria which insurance companies presently have.

CHAIRMAN CLARK said they would speed the process up if they leave the suspension provision in the bill.

Ms. Lenmark agreed that it would speed up the process but was not willing to say that they don't need to have the additional criteria. It's not that the company would use it adversely in every instance. There is a presumption in the amendments that always the information is going to be used to the detriment of the driver and that it not necessarily true. She said that her position was that they need to have the freedom to use suspension information for underwriting criteria that are telling to them in any given situation.

CHAIRMAN CLARK thought he was hearing that the insurance companies, upon conviction, raise a person's rates in most cases.

Ms. Lenmark answered, "In some cases." The Chairman repeated, "In most cases."

CHAIRMAN CLARK said that now they would be given another opportunity without this amendment to not only raise the rates, but also to raise the rates because his drivers license was suspended.

Ms. Lenmark respectfully disagreed. She said they already have that ability and the amendments take away a factor they are presently, in some instances, using.

CHAIRMAN CLARK asked if they have the ability now, in what types of convictions do they have that ability now on a suspension.

Ms. Lenmark said the department already must suspend the license when a person is charged with a violation of some specific statutes. The bill would change that to conviction. Words are being added regarding the complaint and the court order. She pointed out further existing law regarding suspension. What would be new is in subsection (c) on page 1 which changes the way that the notice of those effects get to the driver. She said insurance companies already have the ability to use that information but the amendments would remove that ability.

CHAIRMAN CLARK said, "You do not now or the department now does not suspend a drivers license for someone who is caught speeding at night and they do not suspend a drivers license for someone who runs a stop sign. The only things that a drivers license is suspended for now are things like DUI and habitual offender and those types of violations, persons driving while revoked....." But under this it would happen for every moving violation, the way he understood it.

Ms. Lenmark said the present statute reads that the suspension must happen for some specific statutes in chapter 3 and other chapters in title 61. This bill would take out those specifically enumerated chapters. This is a substantive change in this bill and that was why she reiterated the department already has the authority and the insurance companies already have the ability to use the information. The amendments take

away their ability to use information that is important in identifying the cost of a risk.

REP. TREXLER was concerned about the 2,500 outstanding warrants and asked if they would all result in convictions.

Col. Reap said that when they are finally brought to the court, they all would end up in conviction. Some of the warrants relate to people who have already been to court and this bill wouldn't address those. He said that had it been in effect, they might not have gotten to this point with the people in their disrespect for the court. The people the bill would affect are about 80% which will end in conviction.

Closing by Sponsor:

REP. HALLIGAN closed with the agreement that he would work with whomever might want to make changes in the bill to address the concerns of proponents and opponents.

{Tape: 2; Side: A; Approx. Counter: 54}

EXECUTIVE ACTION ON SB 59

Motion: REP. ANDERSON MOVED SB 59 BE CONCURRED IN.

Motion: REP. BOHARSKI MOVED TO AMEND SB 59 ON PAGE 1, LINE 21 FOLLOWING "SUBPOENA." INSERT "THE TIME AND PLACE MAY BE MODIFIED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES OR BY AN AMENDED SUBPOENA ISSUED BY THE CLERK OF THE COURT."

Discussion: **REP. BOHARSKI** said he thought they needed the amendments to make the bill work. He asked how a person would receive the information about any changes to an existing subpoena.

CHAIRMAN CLARK said the person would be served with an amended version of the subpoena by the process server.

Vote: The motion carried unanimously by voice vote.

Motion/Vote: REP. MC GEE MOVED SB 59 BE CONCURRED IN AS AMENDED. The motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 61

Motion: REP. BOHARSKI MOVED SB 61 BE CONCURRED IN.

Discussion: **REP. MC GEE** said that his notes indicated that there was testimony from a Justice of the Peace (JP) who did not like the sheriff overturning a JP decision and wanted the local government to deal with that.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 3/1/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓	3:05 ✓	
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar		✓	
Rep. Debbie Shea	✓		
Rep. Liz Smith		✓	
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 3/1/95

BILL NO. SB 13 SPONSOR(S) Sen Halligan

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Craig Reed	MHD	✓	
Brenda Nordlund	DOJ	✓	
Roger McGlenn	Independent Ins. Agents Assoc. of MT		✓ Amend
Jacqueline Denmark	Am. Ins. Assoc.		✓ amend
Ron Ahlbrand	State Farm Ins		✓ Amen

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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REP. ANDERSON felt the amendments took almost everything out the bill and he could see no substitute for the communications which should already be taking place between the judge and the administrator.

Motion/Vote: **REP. ANDERSON MOVED TO TABLE SB 61. The motion carried 13 - 5, REPS. KOTTEL, TASH, MC CULLOCH, CAREY and CURTISS voted no.**

Motion: **REP. MC GEE MOVED TO RECESS UNTIL 7 PM.**

{Tape: 3; Side: A}

When the committee resumed at 7 PM, **REP. LINDA MC CULLOCH and REP. DEBBIE SHEA** were absent and **REP. MC CULLOCH** registered proxy votes.

EXECUTIVE ACTION ON SB 13

Motion: **REP. HURDLE MOVED SB 13 BE CONCURRED IN.**

Discussion: **REP. HURDLE** said this bill dealt with the problem of 2,500 outstanding warrants and it was testified that 80% of them would end in conviction if they could be served.

REP. GRIMES said currently the only way to suspend a drivers license was to have a person appear. The bill would provide for two warnings if they failed to pay the fine.

REP. BOHARSKI understood the testimony to be that under this bill they were allowed to use the information on insurance and he wondered if the amendments included striking that language.

Motion: **REP. ANDERSON MOVED TO AMEND SB 13. EXHIBIT 4**

Discussion: **REP. ANDERSON** explained that the purpose of the amendments was to deal with persons who were not paying their fines and their licenses were suspended because of it. These amendments would provide that those persons be considered by the insurance companies in terms of the risk to be reflected in their premiums.

REP. SOFT asked what the bill would accomplish with all of that language removed.

REP. ANDERSON believed the bill still had some use as reflected in subsection 3 in that it would allow the department to bring them in on summons or complaint and they would still be subject to license suspension if they failed to pay their fines. It only allowed the insurance companies to assess the people in a higher risk factor for failure to pay.

REP. CAREY asked if the sponsor of the bill had been contacted about the amendments and he was told that the sponsor was not contacted.

REP. MC GEE asked **Ms. Nordlund** to respond to the amendments on behalf of the sponsor.

Without objection from the committee, **Ms. Nordlund** said that the amendments were done as an accommodation for another senator during second reading for debate, but these amendments were not of grave concern to the sponsor. The amendments were put on after the hearing without notice to the insurance industry and had not had the benefit of a hearing until they reached this committee.

Vote: **The motion carried unanimously, 17 - 0, by voice vote.**

Motion/Vote: **REP. GRIMES MOVED SB 13 BE CONCURRED IN AS AMENDED. The motion carried unanimously.**

EXECUTIVE ACTION ON SB 237

Motion: **REP. CAREY MOVED SB 237 BE CONCURRED IN.**

Discussion: **CHAIRMAN CLARK** expressed his views on the bill and reminded the committee that many cities and towns had ordinances to cover this problem. He favored convictions of DUI offenses rather than open container offenses.

REP. ANDERSON said he believed the bill had a few problems one of which was that constituents were not in favor of it. He said another problem provided that it was unlawful to drink an alcoholic beverage in a motor vehicle. He understood that motor vehicle included golf carts at golf courses outside the limits of an incorporated city or town. There was objection from a constituent that it would cause uncontrolled littering at more taxpayer cost. His main concern was that it was legal to go to a bar and then drive, legal to drink alcohol in the home and then drive, but this made it illegal to drink in a responsible fashion while driving yet it was legal to eat while driving in such a way as to hinder the ability to drive responsibly. The bill also prohibited the person who was driving and drinking in an unimpaired fashion from doing so because it banned open containers. It left questions about what an open container included as well as other problems.

He said that there were strict laws dealing with people driving while impaired and he thought those were the ones who needed the focus, not the responsible drinker.

Motion/Vote: **REP. ANDERSON MOVED TO TABLE SB 237. The motion failed by tie vote, 9 - 9, on roll call vote.**

HOUSE STANDING COMMITTEE REPORT

March 23, 1995

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 13** (third reading copy -- blue) **be concurred in as amended.**

Signed: Bob Clark

Bob Clark, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Title, lines 10 and 11.
Strike: "PROHIBITING" on line 10 through "PAY;" ON LINE 11

2. Title, line 12.
Strike: "SECTIONS 33-16-201 AND"
Insert: "SECTION"

3. Page 2, lines 5 through 8.
Strike: "A" on line 5 through end of line 8

4. Page 2, line 17 through line 23 of page 3.
Strike: section 2 in its entirety

-END-

Committee Vote:
Yes 17, No 0.

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EXHIBIT 4
DATE 3/22/95
SB 13

SB 13 AMENDMENTS

PREPARED BY JACQUELINE LENMARK
FOR THE AMERICAN INSURANCE ASSOCIATION

Amend SB 13, third reading, second printing as follows:

1. Page 1, lines 10 and 11.
   Following: "VIOLATION;"
   Strike: "PROHIBITING" on line 10 through "PAY" on line 11.

2. Page 1, line 12.
   Following: "~~SECTION~~"
   Strike: "SECTIONS 33-16-201 AND"
   Insert: "SECTION"

3. Page 2, line 5 through line 8
   Following: "restitution." on line 5
   Strike: remainder of line 5 through line 8 in their entirety.

4. Page 2, line 17 through page 3, line 23
   Strike: section 2 in its entirety.